

## **REMARKS**

Applicant is in receipt of the Office Action mailed May 13, 2004. Reconsideration of the present case is earnestly requested in light of the following remarks.

### **Claim Objections**

The Office Action stated “There is a misnumbering in the claims. Two claims have been numbered 77.” Applicant has amended the first occurrence of “77” to be “75”. Accordingly, Applicant respectfully submits that claim 75 currently recites:

[[77]]75. (Currently Amended) The method of claim 62, wherein the network system is useable by subscribers of each of the plurality of possible wireless service providers.

Applicant respectfully submits that claim 77 recites:

77. (Original) The method of claim 62, wherein the network system includes a memory medium which stores a data structure comprising a list of identification information and a corresponding list of the plurality of possible wireless service providers; and

wherein said determining the wireless service provider for the portable computing device includes accessing the memory medium and using the received identification information to determine the wireless service provider.

### **Double Patenting Rejection**

Applicant respectfully acknowledges the double patenting rejection. Currently, Applicant is awaiting an updated Power of Attorney. Applicant will file a terminal disclaimer to overcome the double patenting rejection in a subsequent Response.

### **§102 Rejections**

Claims 1-3, 5, 14, and 44-47 were rejected under U.S.C. 35 102(e) as being anticipated by Feder et al. (U.S. Pat. No. 6,512,754, hereinafter "Feder"). This rejection is respectfully traversed.

Applicant has amended independent claims 1 and 62. Applicant submits that claims 1 and 62, as amended, are allowable based on the following reasoning.

As the Examiner is certainly aware, anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984). The identical invention must be shown in as complete detail as is contained in the claims. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Applicant's invention as currently recited in claim 1 includes, "...the first access point determining the wireless service provider for the portable computing device after receiving the identification information. . ." Feder nowhere teaches or suggests this feature.

Rather, Feder teaches and discloses that "...a registration server in the foreign WSP determines the identity of the roaming end system's home network" (Feder col. 9, lines 8-10) (*emphasis added*).

Accordingly, Applicant respectfully submits that, at least for the reason presented, claim 1 is patentably distinguished over Feder. Applicant respectfully submits that claim 1 and those dependent therefrom are allowable.

The Office Action refers to Feder col. 10, lines 22-53 to suggest that Feder teaches Applicant's invention as recited in Applicant's claim 1. Applicant is unsure as to how the "Access point function" as described in Feder col. 10, lines 22-53 disclose each and every element of the Applicant's invention as recited in claim 1.

Feder teaches and discloses:

1. Access point function. Access points 82 perform MAC layer bridging and MAC layer association and dissociation procedures. An

access point includes a processor (preferably in the form of custom application specific integrated circuit ASIC), a link to a wireless hub (preferably in the form of an Ethernet link on a card or built into the ASIC), a link to an antenna (preferably in the form of a card with a data modulator/demodulator and a transmitter/receiver), and the antenna to which the end system is coupled. The processor runs software to perform a data bridging function and various other functions in support of registration and mobility handovers as further described herein. See discussion with respect to FIGS. 7, 8 and 11.

Access points (APs) take MAC layer frames from the air link and relay them to a wireless hub and vice versa. The MAC layer association and disassociation procedures are used by APs to maintain a list of end system MAC addresses in their MAC address filter table. An AP will only perform MAC layer bridging on behalf of end systems whose MAC addresses are present in the table. An access point and its associated wireless hub are typically co-located. In its simplest form, an access point is just a port into a wireless hub. When the APs and the wireless hub are co-located in the same cell site, they may be connected together via a IEEE 802.3 link. Sometimes, access points are located remotely from the wireless hub and connected via a long distance link like a wired T1 trunk or even a wireless trunk. For multi-sector cells, multiple access points (i.e., one per sector) are used. (Feder col. 10, lines 22-53) (*emphasis added*)

In other words, in the portion referenced above, Feder teaches and discloses that access points perform MAC layer bridging. Furthermore, Feder teaches and discloses that access points relay from MAC layer frames from an air link (i.e. wireless connection) to a wireless hub and vice versa.

Thus, Feder nowhere teaches or suggests, “. . .the first access point determining the wireless service provider for the portable computing device after receiving the identification information. . .” as Applicant’s invention is currently recited in claim 1.

Accordingly, Applicant respectfully submits that claim 1 and those dependent therefrom are allowable.

Applicant respectfully submits that various of the dependent claims are further independently allowable.

For example, with regard to claim 10, the Office Action refers to Feder col. 13, lines 48-67 to teach claim 10. Applicant respectfully disagrees.

Applicant's invention as currently recited in claim 10 includes, "... wherein each virtual access point (AP) of the plurality of virtual access points executes a wireless protocol stack." Feder nowhere teaches or suggests this feature.

Rather, Feder teaches and discloses that an access point has a single protocol stack: "FIG. 7 shows the protocol stack for a local access point" (Feder col. 13, line 48) (*emphasis added*). Thus, Feder nowhere teaches or suggests that an access point includes a plurality of protocol stacks.

Accordingly, claim 10 and those dependent therefrom are believed to be allowable for at least this further reason.

In a similar manner, various other of the dependent claims are allowable. However, Applicant does not include separate arguments for various of the dependent claims.

Claim 62 currently includes limitations similar to claim 1, and so the arguments presented above apply with equal force to claim 1, as well. Accordingly, Applicant respectfully submits that, at least for one or more reasons presented, claim 62 is patentably distinguished over Feder. Accordingly, Applicant respectfully submits that claim 62 and those dependent therefrom are allowable.

Claim 30 includes limitations similar to claim 1, e.g., the feature that "... wherein each of the plurality of access points is operable to determine the wireless service provider indicated in the identification information. . .", and so the arguments

presented above apply with equal force to claim 1, as well. Accordingly, Applicant respectfully submits that, at least for one or more reasons presented, claim 30 is patentably distinguished over Feder. Accordingly, Applicant respectfully submits that claim 30 and those dependent therefrom are allowable.

Applicant respectfully requests removal of the §102 rejections.

### **§103 Rejections**

Claims 11, 40, and 72 were rejected under 35 U.S.C. 103(a) as being unpatentable over Feder in view of Diepstraten et al. (U.S. Pat. No. 5,991,287, hereinafter “Diepstraten”). This rejection is respectfully traversed.

Applicant respectfully submits that there is no teaching, suggestion, or motivation to combine Feder and Diepstraten in either of the references or in the prior art. As held by the U.S. Court of Appeals for the Federal Circuit in *Ecolchem Inc. v. Southern California Edison Co.*, an obviousness claim that lacks evidence of a suggestion or motivation for one of skill in the art to combine prior art references to produce the claimed invention is defective as hindsight analysis. Further, it is nonobvious to combine Feder and Diepstraten.

Furthermore, the showing of a suggestion, teaching, or motivation to combine prior teachings “must be clear and particular. . .Broad conclusory statements regarding the teaching of multiple references, standing alone, are not ‘evidence’.” *In re Dembiczak*, 175 F.3d 994, 50 USPQ2d 1614 (Fed. Cir. 1999). The art must fairly teach or suggest to one to make the specific combination as claimed. That one achieves an improved result by making such a combination is no more than hindsight without an initial suggestion to make the combination. Applicant respectfully submits that there is no suggestion in the prior art for combining Feder and Diepstraten, and that even were the two references combined, they would not produce the system of at least claims 1-83. Applicant respectfully submits claims 1-83 are allowable for at least the above reasons.

The Office Action cites various of the dependent claims as being rejected under 35 U.S.C. 103. Various of the independent claims have been argued to overcome rejections under 35 U.S.C. 102. Applicant also respectfully submits that various of the independent claims are nonobvious and are allowable, as well. Applicant respectfully submits: “If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)” as stated in the MPEP §2143.03. Accordingly, Applicant respectfully submits that, for one or more reasons presented, claims 1-83 are allowable.

Furthermore, as shown above, Feder nowhere teaches or suggests that an access point includes a plurality of protocol stacks, while Applicant’s invention as currently recited in claim 10 includes, “. . . wherein each virtual access point (AP) of the plurality of virtual access points executes a wireless protocol stack.” Feder (as shown above) and/or Diepstraten nowhere teaches or suggests this feature; rather Diepstraten teaches and discloses:

For use with a wireless computer network having a plurality of access points, a mobile station adapted for communicating with the network via a current access point and having a scanning circuit for locating a new access point, the scanning circuit requiring a scanning period of time to locate the new access point, a method of operation of the mobile station and a wireless computer network infrastructure.” (Diepstraten Abstract) *(emphasis added)*

Neither Feder nor Diepstraten teaches or suggests “. . . wherein each virtual access point (AP) of the plurality of virtual access points executes a wireless protocol stack” as included in Applicant’s invention as recited in claim 10. Accordingly, Applicant respectfully submits that claim 10 is patentably distinct over both Feder and Diepstraten, taken both singly and in combination. Claim 11 is dependent upon claim 10 and is believed to be allowable for at least the reason given above in support of claim 10.

Claims 39 and 71 include limitations similar to claim 10, and so the arguments presented above apply with equal force to these claims, as well. Applicant respectfully submits that for at least the reasons presented above, claims 39 and 71 are each patentably distinct over both Feder and Diepstraten, taken both singly and in combination. Claim 40 is dependent upon claim 39 and is believed to be allowable for at least the reason given above in support of claim 39, and claim 72 is dependent upon claim 71 and is believed to be allowable for at least the reason given above in support of claim 71.

Applicant also respectfully submits that numerous ones of the dependent claims recited further distinctions over the cited art. However, since the independent claims have been shown to be patentably distinct, a further discussion of the dependent claims is not necessary at this time.

Applicant respectfully requests removal of the §103 rejections.

## CONCLUSION

Applicant submits the application is in condition for allowance, and an early notice to that effect is requested.

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert & Goetzel PC Deposit Account No. 50-1505/5285-04800/JCH.

Also enclosed herewith are the following items:

- ☒ Return Receipt Postcard
- ☐ Request for Approval of Drawing Changes
- ☒ Notice of Change of Address
- ☐ Check in the amount of \$            for fees (            ).
- ☐ Other:

Respectfully submitted,



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